

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2001-223

May 2, 2003

PUBLIC UTILITIES COMMISSION  
Maine Telecommunications Education  
Access Fund

ORDER

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WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. INTRODUCTION**

In this Order we approve the MTEAF Advisory Board's recommendations to the Commission, made pursuant to Chapter 285 § 6(B), concerning the operation of the Maine Telecommunications Education Access Fund (MTEAF) from July 2003 – June 2004. The MTEAF will continue to fund the same Internet and support services as it did in 2002-2003. We also direct the Board to report back to the Commission by September 2003 on its recommendation concerning funding innovative and technologically advanced (ITA) projects. We also seek comments from any other interested persons concerning ITA projects.

**II. APPROVAL OF MTEAF PROGRAM ELEMENTS FOR 2002 – 2003**

Title 35-A M.R.S.A. § 7104-B(4) provides that MTEAF funds must be used to provide discounts to qualified schools and libraries for the following: telecommunications services; Internet access; internal connections; computers; training; and content. Chapter 285 § 6(B) of our Rules requires the MTEAF Advisory Board to recommend to us annually the services that should be funded for the upcoming year, the funding level, and the overall amount to be assessed by carriers. Based on the recommendation of the Board, we approve the following program elements for operating the MTEAF from July 1, 2003 – June 30, 2004.

**A. Assessments by Carriers**

Title 35-A M.R.S.A. § 7104-B(3)(A) requires the Commission to annually establish an amount of up to .5% of retail charges, to be collected by intrastate carriers for the MTEAF. Chapter 285 § 2(B) requires the Commission, in establishing the amount to be collected, to consider the needs of schools and libraries, the amount collected in the previous year and the impact on ratepayers, particularly when integrated with any State Universal Service Fund.

During the past two years the Advisory Board recommended that the maximum rate of .5% be collected. The Board projects that this will produce funds sufficient to support continued connections to the Internet for all of Maine's schools and libraries assuming the Federal E-Rate pays for approximately 60% of the cost. The fund administrator expects MTEAF assessments of .5% of revenues for FY 02-03 (July 1, 2002 to June 30, 2003) to yield \$2.9 million, with the same amount in

2003-2004 at the .5% level. The Board projects that it will cost MTEAF \$3.2 million to operate the school and library network (See Attachment 1) during 2003-2004. Therefore, it recommends that collection continue at the .5% level. The approximate \$300,000 not covered by ongoing collections will be paid out from the current fund balance (remaining from the original MSLN program).

In determining the amount to be collected from carriers, in addition to the projected cost of the program, we also consider the level of discount to be received through the Federal E-Rate program and any USF assessments being charged to customers. To date, Maine (through the MSLN Consortium) has not received Federal E-Rate funding for the year 2002-2003 (the 2003-2004 application is currently being reviewed by USAC). USAC notified the Consortium in November 2002 that its filing was late and therefore would not be considered. That decision was appealed to the FCC in February 2003. To date, the FCC has taken no action on the appeal. Therefore UNET and Verizon have been paid from the current fund balance pending the outcome of the appeal.

The Commission also recently adopted a rule (Chapter 288) that will require all intrastate carriers to contribute to a Universal Service Fund at a rate of 1.70% (or 0.0170) of each carrier's intrastate retail revenues, Chapter 288 § 4 (6). We prefer to keep the MTEAF assessment as low as possible, given that this additional USF assessment is now in place. However, to provide support for essential services to schools and libraries, we find it necessary to continue to assess carriers at the maximum level of .5%.

**B. Innovative and Technologically Advanced Program**

Title 35-A M.R.S.A. § 7104-B(5) requires that "[a] minimum of 25% of each annual program budget must be devoted to targeted projects that are innovative and technologically advanced (ITA)." Last year we considered MTEAF support for ATM as "technologically advanced." In 2003-2004, the Board projects MTEAF support for ATM to total \$454,471. In 2002-2003, we also provided grants totaling \$501,858 for three innovative projects. The Board recommends that we defer deciding about a new grant proposal program until September 2003, as we may know the results of the 2002 Federal E-Rate appeal by that time. Any future support for the MLTE laptop initiative may also meet this requirement. We agree to decide about appropriate funding for innovative and technologically advanced projects in September 2003. The Board should make its recommendation by September 12, 2003. We also invite any interested persons to file comments with the Commission concerning the best way to meet this statutory requirement or to contact any Board members with concerns or comments.

**C. Circuit Riders**

The MSLN currently supports three "circuit riders" who are available by phone, e-mail, and onsite visits to assist schools and libraries. Feedback on this program has continued to be extremely positive, especially for small schools and libraries. The Board proposes continuation at a cost of \$232,950 annually. We agree with the Board that the MTEAF should continue to fund this service.

D. Replacement FRADS

Currently approximately 300 sites have 56 kbps connections using a FRAD (Frame Relay Access Device). Some of these FRADs are wearing out over seven years of use. The FRADS are no longer manufactured and it is not cost-effective to repair them. Last year we funded routers to replace inoperable FRADS. Verizon projects that up to 50 FRADS will need to be replaced next year. Verizon technicians will replace the FRADS and the University of Maine will work with Verizon to configure the routers. The total cost for 50 routers, including maintenance, will be \$80,944. We agree with the Board's recommendation and approve this spending.

E. Raymond H. Fogler Library at the University of Maine – Digital Library

The 120<sup>th</sup> Maine State Legislature passed a bill that provides funds to create a digital library to meet the educational, research, business, and economic needs of Maine (P.L. 2001, ch. 522 §5). The Commission is directed to transfer \$500,000 to the University of Maine twice, by June 30, 2002, and by June 30, 2003, upon application by the Board of Trustees of the University of Maine System. We direct the MTEAF Board Chair to transfer the funds upon such request.

F. Maine Learning Technology Endowment

On September 14, 2001, we agreed to provide funds from the MTEAF to support certain network functions necessary for the Maine Learning Technology Endowment (MLTE) (laptop initiative) and to support certain other functions for the MLTE. Under the Order, the MTEAF will provide payments totaling no more than \$9 million over a four-year period beginning in August of 2002. Support will be capped at \$2,250,000 per year. We approved transfer of \$2.25 million in October 2002. We continue to reserve the right to approve any specific planned expenditures in 2003–2004.

G. Internet Filtering

The Children's Internet Protection Act (CIPA) and the Neighborhood Internet Protection Act (NCIPA) went into effect on April 20, 2001. These Federal laws place restrictions on the use of funding that is available from various Federal programs, including E-Rate. These restrictions take the form of requirements for Internet safety policies and technology which block or filter certain material from being accessed through the Internet. Our statute and Chapter 285 require that qualified schools and libraries apply for Federal E-Rate discounts in order to receive MTEAF funding.

Currently, the American Library Association, along with other entities, is challenging the legality of these statutes in the United States Supreme Court. In the meantime, a lower court directed the FCC to stay the application of the filtering requirements as they pertain to libraries. The requirements remain in place for schools (and are not the subject of the case currently pending before the Supreme Court). UNET has arranged to provide filtering for schools (and any libraries which choose to

use filtering) at a cost of \$140,000 annually. Federal E-Rate does not provide a discount for filtering. We approve payment for filtering for 2003-2004. We will reexamine the issue again next year in light of any changed FCC requirements.

H. Alternative Equivalent Value

A number of schools and libraries have asked about receiving the equivalent value of their current T-1, to put toward the purchase of higher bandwidth such as ATM, T-3, or a cable connection. AEV was an element of the original MSLN program. The Board recommends that the Commission authorize the Board to approve AEV requests for services that provide equivalent or greater quality of service, with reimbursements at no more than the site would ordinarily be eligible (56 or T-1). The Board will also condition AEV on the site applying for Federal E-Rate for the service. We agree and authorize the Board to approve such requests.

**III. CONCLUSION**

As described above, the third year (July 1, 2003, to June 30, 2004) of MTEAF funding will be used to maintain the Internet connections provided by MSLN. We delegate to the Chair of the Advisory Board the authority to direct the MTEAF fund administrator to make disbursements consistent with this Order. We will consider how to meet the Innovative and Technological Advanced requirement in September and invite all interested persons to provide comments on how to best meet that requirement.

Dated at Augusta, Maine, this 2<sup>nd</sup> day of May 2003.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.